

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KATHERINE POWELL,	:	NO. 1:09-CV-00710
	:	
Plaintiff,	:	
	:	
v.	:	OPINION AND ORDER
	:	
	:	
CONTINENTAL CASUALTY COMPANY,	:	
	:	
Defendant.	:	

This matter is before the Court on the Magistrate Judge's Report and Recommendation that Plaintiff's complaint be dismissed with prejudice and that Defendant's motion to dismiss for failure to prosecute be granted (doc. 40). No objections were filed to the report.

In brief, Plaintiff filed a complaint in state court seeking a declaratory judgment that Defendant would defend Plaintiff as Plaintiff's insurance company in a suit brought against Plaintiff (doc. 4). The action was removed here on diversity. Plaintiff's counsel thereafter was granted leave to withdraw on the basis of nonpayment of legal fees (doc. 28). Plaintiff was repeatedly warned that if she continued to not respond to discovery requests or orders of the Court she would face dismissal of her complaint. On June 1, 2010, Defendant filed a motion for summary judgment or, in the alternative, to dismiss for failure to prosecute (doc. 31). Plaintiff filed no response to that motion.

The Magistrate Judge recommends that Plaintiff's complaint be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b) because Plaintiff has failed to respond to discovery requests and repeatedly ignored Court orders regarding

the same; Defendant has wasted time, resources and effort trying to get Plaintiff to fulfill her legal obligations; Plaintiff was warned three times that her continued failure to comply would result in the dismissal of her case; and a less drastic sanction would undermine the Court's orders and the Federal Rules (doc. 40).

Because no objections to the Magistrate Judge's report were filed, the Court must merely satisfy itself that there is no clear error on the face of the record. See, e.g., Advisory Committee Notes to Fed. R. Civ. P. 72; Thomas v. Arn, 474 U.S. 140, 150(1985)("It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings"). Not only does the Court find no clear error on the face of the record, the Court finds that the Magistrate Judge's Report and Recommendation is thorough, well-reasoned and correct. Accordingly, the Court ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation in all respects (doc. 40). Therefore, Plaintiff's complaint (doc. 4) is DISMISSED WITH PREJUDICE and Defendant's Motion for Summary Judgment or, in the Alternative, to Dismiss for Failure to Prosecute is GRANTED (doc. 31).

SO ORDERED.

Dated: January 12, 2011

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge